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NOTICE OF WAYS AND MEANS MOTION TO IMPLEMENT CERTAIN PROVISIONS OF THE DECEMBER 10, 2001 BUDGET

**Income Tax Act amendments
(Part 4) reproduced**

January 29, 2002



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A THOMSON COMPANY

One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

Customer Relations:
Toronto: 1-416-609-3800
Elsewhere in Canada/U.S.: 1-800-387-5164
Fax: 1-416-298-5094

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Immediate release

Ottawa, January 29, 2002
2002-009

NOTICE OF WAYS AND MEANS MOTION INTRODUCED FOR BUDGET INITIATIVES

Secretary of State (International Financial Institutions) John McCallum, on behalf of Finance Minister Paul Martin, today tabled a detailed Notice of Ways and Means Motion in the House of Commons to provide for the implementation of certain provisions of the budget tabled in the House on December 10, 2001.

The Motion includes measures to:

- establish the Canadian Air Transport Security Authority to deliver improved security at Canadian airports and on board flights, in accordance with new national standards to be developed by Transport Canada;
- implement an Air Travellers Security Charge to fund enhanced air security;
- defer certain corporate income tax instalments for January, February and March 2002 for six months to assist small businesses in meeting their cash flow needs. This measure will defer \$2 billion in taxes for small businesses;
- exempt from income tax tuition assistance for adult basic education provided under certain government programs, and extend access to the education tax credit;
- permanently implement a 1997 budget measure that provides special tax assistance for donations of publicly listed securities to public charities. This move will support the important work done by charitable organizations;
- make it easier for non-residents who invest through partnerships to retain Canadian investment managers and advisors;
- allow apprentice vehicle mechanics to deduct from their income the cost of new tools, to the extent that these costs exceed \$1,000 or 5 per cent of their apprenticeship income (whichever is the larger amount);
- improve the responsiveness of the goods and services tax credit (GSTC). Beginning July 2002, an individual's GSTC entitlement for each quarter will be based on their family circumstances at the end of the previous three-month period, rather than the end of the previous calendar year; and
- provide increased flexibility to parents whose child is hospitalized for an extended period following birth or adoption by increasing the window during which they can claim parental benefits under the employment insurance program to up to two years.

Explanatory notes for the measures in the Motion that relate to income tax matters and the Air Travellers Security Charge will be released shortly. The budget measure relating to qualified limited partnerships will be implemented through amendments to the

Income Tax Regulations rather than amendments to the Income Tax Act. Draft regulations to implement this measure, as well as the initiatives related to renewable energy and energy efficiency, will also be included in the explanatory notes.

The Notice of Ways and Means Motion is available free of charge on the Department of Finance Internet site, which is listed below. Printed copies of the Motion may be obtained for \$15.00 from the Department of Finance Distribution Centre at (613) 995-2855.

Legislative Proposals



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[Part 1—Air Transport Security, Part 2—Air Security Charges, and Part 3—Employment Insurance of the Notice of Ways and Means Motion are not reproduced.]

PART 4

R.S., c. 1 (5th
Supp.)

INCOME TAX ACT

20. (1) Subsection 6(8) of the Income Tax Act is replaced by the following:

GST rebates re
costs of
property or
service

(8) If

(a) an amount in respect of an outlay or expense is deducted under section 8 in computing the income of a taxpayer for a taxation year from an office or employment, or

(b) an amount is included in the capital cost to a taxpayer of a property described in subparagraph 8(1)(j)(ii) or 8(1)(p)(ii),

and a particular amount is paid to the taxpayer in a particular taxation year as a rebate under the Excise Tax Act in respect of any goods and services tax included in the amount of the outlay or expense, or the capital cost of the property, as the case may be, the particular amount

(c) to the extent that it relates to an outlay or expense referred to in paragraph (a), shall be included in computing the taxpayer's income from an office or employment for the particular taxation year, and

(d) to the extent that it relates to the capital cost of property referred to in paragraph (b), is deemed, for the purposes of subsection 13(7.1), to have been received by the taxpayer in the particular taxation year as assistance from a government for the acquisition of the property.

(2) Subsection (1) applies to the 2002 and subsequent taxation years.

21. (1) Subsection 8(1) of the Act is amended by striking out the word "and" at the end of paragraph (p), by adding the word "and" at the end of paragraph (q) and by adding the following after paragraph (q):

Apprentice
mechanics' tool
costs

(r) if the taxpayer was an eligible apprentice mechanic at any time after 2001 and before the end of the taxation year, the amount claimed by the taxpayer for the taxation year under this paragraph not exceeding the lesser of

(i) the taxpayer's income for the taxation year computed without reference to this paragraph, and

(ii) the amount determined by the formula

$$(A - B) + C$$

where

A is the total of all amounts each of which is the cost to the taxpayer of an eligible tool acquired in the taxation year by the taxpayer or, if the taxpayer first becomes employed as an eligible apprentice mechanic in the taxation year, the cost to the taxpayer of an eligible tool acquired by the taxpayer in the last three months of the preceding taxation year,

B is the lesser of

(A) the value of A for the taxation year in respect of the taxpayer, and

(B) the greater of \$1,000 and 5% of the total of all amounts, each of which is the taxpayer's income from employment for the taxation year as an eligible apprentice mechanic, computed without reference to this paragraph, and

C is the amount by which the amount determined under this subparagraph for the preceding taxation year in respect of the taxpayer exceeds the amount deducted under this paragraph for that preceding taxation year by the taxpayer.

(2) Section 8 of the Act is amended by adding the following after subsection (5):

Apprentice mechanics

(6) For the purpose of paragraph (1)(r),

(a) a taxpayer is an eligible apprentice mechanic in a taxation year if, at any time in the taxation year, the taxpayer

(i) is registered in a program established in accordance with the laws of a province that leads to designation under those laws as a mechanic licensed to repair self-propelled motorized vehicles, and

(ii) is employed as an apprentice mechanic;

(b) an eligible tool is a tool (including ancillary equipment) that

(i) is acquired by a taxpayer for use in connection with the taxpayer's employment as an eligible apprentice mechanic,

(ii) has not been used for any purpose before it is acquired by the taxpayer, and

(iii) is certified in prescribed form by the taxpayer's employer to be required to be provided by the taxpayer as a condition of, and for use in, the taxpayer's employment as an eligible apprentice mechanic; and

(c) a taxpayer who, for a taxation year, is not an eligible apprentice mechanic and has an excess amount determined under the description of C in subparagraph (1)(r)(ii) is, for the taxation year, entitled to claim a deduction under that paragraph as if that excess amount were wholly applicable to an employment of the taxpayer.

Cost of tools
of an
apprentice
mechanic

(7) Except for the purpose of the description of A in subparagraph (1)(r)(ii), the cost to a taxpayer of an eligible tool the cost of which was included in determining the value of that description in respect of the taxpayer for a taxation year is the amount determined by the formula

$$K - (K \times L/M)$$

where

K is the cost to the taxpayer of the tool determined without reference to this subsection;

L is the amount that would be determined under subparagraph (1)(r)(ii) in respect of the taxpayer for the taxation year if the value of C in that subparagraph were nil; and

M is the value of A determined under subparagraph (1)(r)(ii) in respect of the taxpayer for the taxation year.

(3) Subsections (1) and (2) apply to eligible tools acquired after 2001.

22. (1) The portion of paragraph 38(a.1) of the Act before subparagraph (i) is replaced by the following:

(a.1) a taxpayer's taxable capital gain for a taxation year from the disposition of any property is $\frac{1}{4}$ of the taxpayer's capital gain for the year from the disposition of the property if

(2) Subsection (1) applies to dispositions that occur after 2001.

23. (1) Paragraph 53(2)(m) of the Act is replaced by the following:

(m) any part of the cost to the taxpayer of the property that was deductible (otherwise than because of this subdivision or paragraph 8(1)(r)) in computing the taxpayer's income for any taxation year commencing before that time and ending after 1971;

(2) Subsection (1) applies after 2001.

24. (1) Subsection 56(1) of the Act is amended by adding the following after paragraph (j):

Apprentice
tools, re
proceeds

(k) all amounts received in the year by a person or partnership (in this paragraph referred to as the "vendor") as consideration for the disposition by the vendor of a property the cost of which was included in computing an amount under paragraph 8(1)(r) in respect of the vendor or in respect of a person with whom the vendor does not deal at arm's length, to the extent that the total of those amounts received in respect of the disposition in the year and in preceding taxation years exceeds the total of the cost to the vendor of the property immediately before the disposition and all amounts included in respect of the disposition under this paragraph in computing the vendor's income for a preceding taxation year, unless the property was acquired by the vendor in circumstances to which subsection 85(5.1) or subsection 97(5) applied;

(2) Subsection (1) applies to the 2002 and subsequent taxation years.

25. (1) Paragraph 60(n) of the Act is replaced by the following:

Repayment of
pension or
benefits

(n) any amount paid by the taxpayer in the year as a repayment (otherwise than because of Part VII of the *Unemployment Insurance Act*, chapter U-1 of the Revised Statutes of Canada, 1985, or of Part VII of the *Employment Insurance Act*) of any of the following amounts to the extent that the amount was included in computing the taxpayer's income, and not deducted in computing the taxpayer's taxable income, for the year or for a preceding taxation year, namely,

- (i) a pension described in clause 56(1)(a)(i)(A),
- (ii) a benefit described in clause 56(1)(a)(i)(B),
- (iii) an amount described in subparagraph 56(1)(a)(ii),
- (iv) a benefit described in subparagraph 56(1)(a)(iv),
- (v) a benefit described in subparagraph 56(1)(a)(vi), and
- (vi) an amount described in paragraph 56(1)(r);

(2) Subsection (1) applies to the 1997 and subsequent taxation years and, notwithstanding subsections 152(4) to (5) of the Act, any assessment of a taxpayer's tax, interest or penalty for any taxation year shall be made that is necessary to give effect to subsection (1).

26. (1) Subsection 67.1(2) of the Act is amended by striking out the word "or" at the end of paragraph (e) and by adding the following after paragraph (e):

(e.1) is an amount that

(i) is not paid or payable in respect of entertainment or of a conference, convention, seminar or similar event,

(ii) would, if this Act were read without reference to subparagraph 6(6)(a)(i), be required to be included in computing a taxpayer's income for a taxation year because of the application of section 6 in respect of food or beverages consumed by the taxpayer or by a person with whom the taxpayer does not deal at arm's length,

(iii) is paid or payable in respect of the taxpayer's duties performed at a site in Canada at which the person carries on a construction activity or at a construction work camp referred to in subparagraph (iv) in respect of the site, and

(iv) is paid or payable for food or beverages provided at a construction work camp, at which the taxpayer is lodged, that was constructed or installed at or near the site to provide board and lodging to employees while they are engaged in construction services at the site; or

(2) Subsection (1) applies to amounts paid or payable in respect of food and beverages provided after 2001.

27. (1) The portion of subsection 70(9) of the Act before paragraph (a) is replaced by the following:

Transfer of
farm property
to child

(9) If any land in Canada or depreciable property in Canada of a prescribed class of a taxpayer to which subsection (5) would otherwise apply was, before the taxpayer's death, used principally in a farming business in which the taxpayer, the taxpayer's spouse or common-law partner or any of the taxpayer's children was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot), the property is, as a consequence of the death, transferred or distributed to a child of the taxpayer who was resident in Canada immediately before the death and it can be shown, within the period ending 36 months after the death or, if written application that this subsection apply has been made to the Minister by the taxpayer's legal representative within that period, within any longer period that the Minister considers reasonable in the circumstances, that the property has vested indefeasibly in the child,

(2) Subparagraph 70(9.3)(b)(i) of the Act is replaced by the following:

(i) a share in the capital stock of a Canadian corporation that would be a share in the capital stock of a family farm corporation if paragraph (a) of the definition "share of the capital stock of a family farm corporation" in subsection (10) were read without the words "in which the person or a spouse, common-law partner, child or parent of the person was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot)", or

(3) The portion of paragraph (a) of the definition "interest in a family farm partnership" in subsection 70(10) of the Act after subparagraph (iv) is replaced by the following:

principally in the course of carrying on a farming business in Canada in which the person or a spouse, common-law partner, child or parent of the person was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot),

(4) The portion of paragraph (a) of the definition "share of the capital stock of a family farm corporation" in subsection 70(10) of the Act after subparagraph (iv) is replaced by the following:

principally in the course of carrying on a farming business in Canada in which the person or a spouse, common-law partner, child or parent of the person was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot),

(5) Subsection (1) applies to transfers of property that occur as a consequence of deaths that occur after December 10, 2001.

(6) Subsection (2) applies to transfers and distributions of property that occur after December 10, 2001.

(7) Subsections (3) and (4) apply to transfers of property that occur after December 10, 2001.

28. (1) The portion of subsection 73(3) of the Act before paragraph (a) is replaced by the following:

*Inter vivos
transfer of
farm property
to child*

(3) For the purposes of this Part, if at any time any land in Canada or depreciable property in Canada of a prescribed class of a taxpayer or any eligible capital property in respect of a business carried on in Canada by a taxpayer is transferred by the taxpayer to a child of the taxpayer who was resident in Canada immediately before the transfer, and the property was, before the transfer, used principally in a farming business in which the taxpayer, the taxpayer's spouse or common-law partner or any of the taxpayer's children was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot),

(2) Subsection (1) applies to transfers of property that occur after December 10, 2001.

29. (1) Section 85 of the Act is amended by adding the following after subsection (5):

Acquisition of
apprentice
tools, re
capital cost
and deemed
depreciation

(5.1) If subsection (1) has applied in respect of the acquisition at any particular time of any depreciable property by a corporation from an individual, the cost of the property to the individual was included in computing an amount under paragraph 8(1)(r) in respect of the individual, and the amount that would be the cost of the property to the individual immediately before the transfer if this Act were read without reference to subsection 8(7) (which amount is in this subsection referred to as the "individual's original cost") exceeds the individual's proceeds of disposition of the property,

(a) the capital cost to the corporation of the property is deemed to be equal to the individual's original cost; and

(b) the amount by which the individual's original cost exceeds the individual's proceeds of disposition in respect of the property is deemed to have been deducted by the corporation under paragraph 20(1)(a) in respect of the property in computing income for taxation years that ended before that particular time.

(2) Subsection (1) applies to dispositions that occur after 2001.

30. (1) Paragraph 87(2)(j.92) of the Act is replaced by the following:

Subsections
125(5.1) and
157.1(1)

(j.92) for the purposes of subsection 125(5.1) and the definition "eligible corporation" in subsection 157.1(1), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(2) The portion of paragraph 87(2)(oo.1) of the Act before subparagraph (i) is replaced by the following:

Refundable
investment tax
credit and
balance-due day

(oo.1) for the purpose of applying the definition "qualifying corporation" in subsection 127.1(2), and subparagraph (d)(i) of the definition "balance-due day" in subsection 248(1), to any corporation, the new corporation is deemed to have had

(3) Subsections (1) and (2) apply to taxation years that end after 2001.

31. (1) The portion of paragraph 88(1)(e.9) of the Act before subparagraph (i) is replaced by the following:

(e.9) for the purpose of applying the definition "qualifying corporation" in subsection 127.1(2), and subparagraph (d)(i) of the definition "balance-due day" in subsection 248(1), to any corporation (other than the subsidiary)

(2) Subsection (1) applies to taxation years that end after 2001.

32. (1) Section 97 of the Act is amended by adding the following after subsection (4):

Acquisition of
apprentice
tools, re
capital cost
and deemed
depreciation

(5) If subsection (2) has applied in respect of the acquisition at any particular time of any depreciable property by a partnership from an individual, the cost of the property to the individual was included in computing an amount under paragraph 8(1)(r) in respect of the individual, and the amount that would be the cost of the property to the individual immediately before the transfer if this Act were read without reference to subsection 8(7) (which amount is in this subsection referred to as the "individual's original cost") exceeds the individual's proceeds of disposition of the property,

(a) the capital cost to the partnership of the property is deemed to be equal to the individual's original cost; and

(b) the amount by which the individual's original cost exceeds the individual's proceeds of disposition in respect of the property is deemed to have been deducted by the partnership under paragraph 20(1)(a) in respect of the property in computing income for taxation years that ended before that particular time.

(2) Subsection (1) applies to dispositions that occur after 2001.

33. (1) Subparagraph 110(1)(d.01)(ii) of the Act is repealed.

(2) Subsection 110(1) of the Act is amended by adding the following after paragraph (f):

Financial
assistance

(g) any amount that

(i) is received by the taxpayer in the year under a program referred to in subparagraph 56(1)(r)(ii) or (iii), a program established under the authority of the *Department of Human Resources Development Act* or a prescribed program,

(ii) is financial assistance for the payment of tuition fees of the taxpayer that are not included in computing an amount deductible under subsection 118.5(1) in computing the taxpayer's tax payable under this Part for any taxation year,

(iii) is included in computing the taxpayer's income for the year, and

(iv) is not otherwise deductible in computing the taxpayer's taxable income for the year;

(3) Subsection (1) applies to dispositions that occur after 2001.

(4) Paragraph 110(1)(g) of the Act, as enacted by subsection (2), applies to the 1997 and subsequent taxation years and, notwithstanding subsections 152(4) to (5) of the Act, any assessment of a taxpayer's tax, interest or penalty for any taxation year shall be made that is necessary to give effect to that paragraph.

34. (1) The description of E in the definition "non-capital loss" in subsection 111(8) of the Act is replaced by the following:

E is the total of all amounts each of which is the taxpayer's loss for the year from an office, employment, business or property, the taxpayer's allowable business investment loss for the year, an amount deducted under paragraph (1)(b) or section 110.6 in computing the taxpayer's taxable income for the year or an amount that may be deducted under any of paragraphs 110(1)(d) to (d.3), (f), (g), (j) and (k), section 112 and subsections 113(1) and 138(6) in computing the taxpayer's taxable income for the year, and

(2) Subsection (1) applies to the 1997 and subsequent taxation years and, notwithstanding subsections 152(4) to (5) of the Act, any assessment of a taxpayer's tax, interest or penalty for any taxation year shall be made that is necessary to give effect to subsection (1).

35. (1) The definition "qualified non-resident" in subsection 115.2(1) of the Act is repealed.

(2) The definitions "designated investment services" and "promoter" in subsection 115.2(1) of the Act are replaced by the following:

"designated
investment
services"
« services de
placement
déterminés »

"designated investment services" provided to a person or partnership means any one or more of the services described in the following paragraphs:

(a) investment management and advice with respect to qualified investments, regardless of whether the manager has discretionary authority to buy or sell;

(b) purchasing and selling qualified investments, exercising rights incidental to the ownership of qualified investments such as voting, conversion and exchange, and entering into and executing agreements with respect to such purchasing and selling and the exercising of such rights;

(c) investment administration services, such as receiving, delivering and having custody of investments, calculating and reporting investment values, receiving subscription amounts from, and paying distributions and proceeds of disposition to, investors in and beneficiaries of the person or partnership, record keeping, accounting and reporting to the person or partnership and its investors and beneficiaries; and

(d) in the case of a corporation, trust or partnership the only undertaking of which is the investing of its funds in qualified investments, marketing investments in the corporation, trust or partnership to non-resident investors.

"promoter"
« promoteur »

"promoter" of a corporation, trust or partnership means a particular person or partnership that initiates or directs the founding, organization or substantial reorganization of the corporation, trust or partnership, and a person or partnership that is affiliated with the particular person or partnership.

(3) The portion of the definition "qualified investment" in subsection 115.2(1) of the Act before subparagraph (a)(ii) is replaced by the following:

"qualified
investment"
« placement
admissible »

"qualified investment" of a person or partnership means

(a) a share of the capital stock of a corporation, or an interest in a partnership, trust, entity, fund or organization, other than a share or an interest

(i) that is either

(A) not listed on a prescribed stock exchange, or

(B) listed on a prescribed stock exchange, if the person or partnership, together with all persons with whom the person or partnership does not deal at arm's length, owns 25% or more of the issued shares of any class of the capital stock of the corporation or of the total value of interests in the partnership, entity, trust, fund or organization, as the case may be, and

(4) Subsection 115.2(1) of the Act is amended by adding the following in alphabetical order:

"Canadian
investor"
« investisseur
canadien »

"Canadian investor", at any time in respect of a non-resident person, means a person that the non-resident person knows, or ought to know after reasonable inquiry, is at that time resident in Canada.

(5) Subsection 115.2(2) of the Act is replaced by the following:

Not carrying on
business in
Canada

(2) For the purposes of subsection 115(1) and Part XIV, a non-resident person is not considered to be carrying on business in Canada at any particular time solely because of the provision to the person, or to a partnership of which the person is a member, at

the particular time of designated investment services by a Canadian service provider if

(a) in the case of services provided to a non-resident individual other than a trust, the individual is not affiliated at the particular time with the Canadian service provider;

(b) in the case of services provided to a non-resident person that is a corporation or trust,

(i) the person has not, before the particular time, directly or through its agents,

(A) directed any promotion of investments in itself principally at Canadian investors, or

(B) sold an investment in itself that is outstanding at the particular time to a person who was a Canadian investor at the time of the sale and who is a Canadian investor at the particular time,

(ii) the person has not, before the particular time, directly or through its agents, filed any document with a public authority in Canada in accordance with the securities legislation of Canada or of any province in order to permit the distribution of interests in the person to persons resident in Canada, and

(iii) when the particular time is more than one year after the time at which the person was created, the total of the fair market value, at the particular time, of investments in the person that are beneficially owned by persons and partnerships (other than a designated entity in respect of the Canadian service provider) that are affiliated with the Canadian service provider does not exceed 25% of the fair market value, at the particular time, of all investments in the person; and

(c) in the case of services provided to a partnership of which the non-resident person is a member,

(i) the particular time is not more than one year after the partnership was formed, or

(ii) the total of the fair market value, at the particular time, of investments in the partnership that are beneficially owned by persons and partnerships (other than a designated entity in respect of the Canadian service provider) that are affiliated with the Canadian service provider does not exceed 25% of the fair market value, at the particular time, of all investments in the partnership.

(6) Subsection 115.2(4) of the Act is replaced by the following:

Transfer
pricing

(4) For the purpose of section 247, where subsection (2) applies in respect of services provided to a person that is a corporation or trust or to a partnership, if the Canadian service provider referred to in that subsection does not deal at arm's length with the promoter of the person or of the partnership, the service provider is deemed not to deal at arm's length with the person or partnership.

(7) Subsections (1) to (3) and (5) and (6) apply to the 2002 and subsequent taxation years.

(8) Subsection (4) applies to the 1999 and subsequent taxation years except that, in applying the definition "Canadian investor", as enacted by that subsection, to taxation years that end after 1998 and before 2002, that definition shall be read as follows:

"Canadian investor", at any time in respect of a qualified non-resident, means

(a) a person that the non-resident knows, or ought to know after reasonable inquiry, is at that time resident in Canada; and

(b) a partnership that the non-resident knows, or ought to know after reasonable inquiry, has a member that is at that time resident in Canada.

(9) In applying subparagraph 115.2(2)(b)(i) of the Act, as enacted by subsection 21(1) of the *Income Tax Amendments Act, 1999*, chapter 19 of the Statutes of Canada, 2000, to taxation years that end after 1998 and before 2002, that subparagraph shall be read as follows:

(i) the non-resident has not, before the particular time, directly or through its agents,

(A) directed any promotion of investments in itself principally at Canadian investors, or

(B) sold an investment in itself that is outstanding at the particular time to a person who was a Canadian investor at the time of the sale and who is a Canadian investor at the particular time,

36. (1) Paragraph (a) of the definition "qualifying educational program" in subsection 118.6(1) of the Act is amended by striking out the word "or" at the end of subparagraph (i) and by adding the following after subparagraph (ii):

(iii) an amount that is received by the student in the year under a program referred to in subparagraph 56(1)(r)(ii) or (iii), a program established under the authority of the Department of Human Resources Development Act or a prescribed program, or

(2) Subsection (1) applies to the 2002 and subsequent taxation years.

37. (1) Subparagraph 122.3(1)(e)(iii) of the Act is replaced by the following:

(iii) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under paragraph 110(1)(d.2), (d.3), (f), (g) or (j), in computing the individual's taxable income for the year.

(2) Subsection (1) applies to the 1997 and subsequent taxation years except that, for the 1997 taxation year, subparagraph 122.3(1)(e)(iii) of the Act, as enacted by subsection (1), shall be read as follows:

(iii) the total of all amounts each of which is an amount deducted by the individual under section 110.6 or paragraph 111(1)(b), or deductible by the individual under paragraph 110(1)(d.2), (d.3), (f), (g) or (j), for the year or in respect of the period or periods referred to in subparagraph (ii), as the case may be.

(3) Notwithstanding subsections 152(4) to (5) of the Act, any assessment of a taxpayer's tax, interest or penalty for any taxation year shall be made that is necessary to give effect to subsection (1) or (2).

38. (1) Subsections 122.5(1) to (3.1) of the Act are replaced by the following:

Definitions

122.5 (1) The following definitions apply in this section.

"adjusted
income"
« revenu
rajusté »

"adjusted income" of an individual, for a taxation year in relation to a month specified for the taxation year, means the total of the individual's income for the taxation year and the income for the taxation year of the individual's qualified relation, if any, in relation to the specified month, both calculated as if no amount were included in respect of any gain from a disposition of property to which section 79 applies.

"cohabiting spouse or common-law partner" « époux ou conjoint de fait visé »

"cohabiting spouse or common-law partner" of an individual at any time has the meaning assigned by section 122.6.

"eligible individual" « particulier admissible »

"eligible individual", in relation to a month specified for a taxation year, means an individual (other than a trust) who

(a) has, before the specified month, attained the age of 19 years; or

(b) was, at any time before the specified month,

(i) a parent who resided with their child, or

(ii) married or in a common-law partnership.

"qualified dependant" « personne à charge admissible »

"qualified dependant" of an individual, in relation to a month specified for a taxation year, means a person who at the beginning of the specified month

(a) is the individual's child or is dependent for support on the individual or on the individual's cohabiting spouse or common-law partner;

- (b) resides with the individual;
- (c) is under the age of 19 years;
- (d) is not an eligible individual in relation to the specified month; and
- (e) is not a qualified relation of any individual in relation to the specified month.

"qualified
relation"
« proche
admissible »

"qualified relation" of an individual, in relation to a month specified for a taxation year, means the person, if any, who, at the beginning of the specified month, is the individual's cohabiting spouse or common-law partner.

"return of
income"
« déclaration
de revenu »

"return of income", in respect of a person for a taxation year, means

(a) for a person who is resident in Canada at the end of the taxation year, the person's return of income (other than a return of income under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) that is required to be filed for the taxation year or that would be required to be filed if the person had tax payable under this Part for the taxation year; and

(b) in any other case, a prescribed form containing prescribed information that is filed for the taxation year with the Minister.

Persons not
eligible
individuals,
qualified
relations or
qualified
dependants

(2) Notwithstanding subsection (1), a person is not an eligible individual, is not a qualified relation and is not a qualified

dependant, in relation to a month specified for a taxation year, if the person

(a) died before the specified month;

(b) is confined to a prison or similar institution for a period of at least 90 days that includes the first day of the specified month;

(c) is at the beginning of the specified month a non-resident person, other than a non-resident person who

(i) is at that time the cohabiting spouse or common-law partner of a person who is deemed under subsection 250(1) to be resident in Canada throughout the taxation year that includes the first day of the specified month, and

(ii) was resident in Canada at any time before the specified month;

(d) is at the beginning of the specified month a person described in paragraph 149(1)(a) or (b); or

(e) is a person in respect of whom a special allowance under the *Children's Special Allowances Act* is payable for the specified month.

Deemed payment
on account of
tax

(3) An eligible individual in relation to a month specified for a taxation year who files a return of income for the taxation year and applies for an amount under this subsection is deemed to have paid during the specified month on account of their tax payable under this Part for the taxation year an amount equal to 1/4 of the amount, if any, determined by the formula

A - B

where

A is the total of

(a) \$213,

(b) \$213 for the qualified relation, if any, of the individual in relation to the specified month,

(c) if the individual has no qualified relation in relation to the specified month and is entitled to deduct an amount for the taxation year under subsection 118(1) because of paragraph (b) of the description of B in that subsection in respect of a qualified dependant of the individual in relation to the specified month, \$213;

(d) \$112 times the number of qualified dependants of the individual in relation to the specified month, other than a qualified dependant in respect of whom an amount is included under paragraph (c) in computing the total for the specified month,

(e) if the individual has no qualified relation and has one or more qualified dependants, in relation to the specified month, \$112, and

(f) if the individual has no qualified relation and no qualified dependant, in relation to the specified month, the lesser of \$112 and 2% of the amount, if any, by which the individual's income for the taxation year exceeds \$6,911; and

B is 5% of the amount, if any, by which the individual's adjusted income for the taxation year in relation to the specified month exceeds \$27,749.

When advance payment applies

(3.1) Subsection (3.2) applies in respect of an eligible individual in relation to a particular month specified for a taxation year, and each subsequent month specified for the taxation year, if

(a) the amount deemed by that subsection to have been paid by the eligible individual during the particular month specified for the taxation year is less than \$25; and

(b) it is reasonable to conclude that the amount deemed by that subsection to have been paid by the eligible individual during each subsequent month specified for the taxation year will be less than \$25.

Advance payment

(3.2) If this subsection applies, the total of the amounts that would otherwise be deemed by subsection (3) to have been paid on account of the eligible individual's tax payable under this Part for the taxation year during the particular month specified for the taxation year, and during each subsequent month specified for the

taxation year, is deemed to have been paid by the eligible individual on account of their tax payable under this Part for the taxation year during the particular specified month for the taxation year, and the amount deemed by subsection (3) to have been paid by the eligible individual during those subsequent months specified for the taxation year is deemed, except for the purpose of this subsection, not to have been paid to the extent that it is included in an amount deemed to have been paid by this subsection.

(2) Subsections 122.5(5) to (6) of the Act are replaced by the following:

Only one
eligible
individual

(5) If an individual is a qualified relation of another individual, in relation to a month specified for a taxation year, only one of them is an eligible individual in relation to that specified month, and if both of them claim to be eligible individuals, the individual that the Minister designates is the eligible individual in relation to that specified month.

Exception re
qualified
dependant

(6) If a person would, if this Act were read without reference to this subsection, be the qualified dependant of two or more individuals, in relation to a month specified for a taxation year,

(a) the person is deemed to be a qualified dependant, in relation to that month, of the one of those individuals on whom those individuals agree;

(b) in the absence of an agreement referred to in paragraph (a), the person is deemed to be, in relation to that month, a qualified dependant of the individual, if any, who is, at the beginning of that month, an eligible individual within the meaning assigned by section 122.6 in respect of the person; and

(c) in any other case, the person is deemed to be, in relation to that month, a qualified dependant only of the individual that the Minister designates.

Notification to
Minister

(6.1) An individual shall notify the Minister of the occurrence of any of the following events before the end of the month following the month in which the event occurs:

- (a) the individual ceases to be an eligible individual;
- (b) a person becomes or ceases to be the individual's qualified relation; and
- (c) a person ceases to be a qualified dependant of the individual, otherwise than because of attaining the age of 19 years.

Non-residents
and part-year
residents

(6.2) For the purpose of this section, the income of a person who is non-resident at any time in a taxation year is deemed to be equal to the amount that would, if the person were resident in Canada throughout the year, be the person's income for the year.

(3) Subsections (1) and (2) apply to amounts that are deemed to be paid during months specified for the 2001 and subsequent taxation years.

39. (1) Subclause 126(1)(b)(ii)(A)(III) of the Act is replaced by the following:

(III) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (j) and sections 112 and 113, in computing the taxpayer's taxable income for the year, and

(2) Subclause 126(2.1)(a)(ii)(A)(III) of the Act is replaced by the following:

(III) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (j) and sections 112 and 113, in computing the taxpayer's taxable income for the year, and

(3) Subparagraph 126(3)(b)(iii) of the Act is replaced by the following:

(iii) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g)

and (j), in computing the taxpayer's taxable income for the year,

(4) Subsections (1) to (3) apply to the 1997 and subsequent taxation years except that, for the 1997 taxation year

(a) subclause 126(1)(b)(ii)(A)(III) of the Act, as enacted by subsection (1), shall be read as follows:

(III) the total of all amounts each of which is an amount deducted by the taxpayer under section 110.6 or paragraph 111(1)(b), or deductible by the taxpayer under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f), (g) or (j) or section 112 or 113, for the year or in respect of the period or periods referred to in subclause (II), as the case may be, and

(b) subclause 126(2.1)(a)(ii)(A)(III) of the Act, as enacted by subsection (2), shall be read as follows:

(III) the total of all amounts each of which is an amount deducted by the taxpayer under section 110.6 or paragraph 111(1)(b), or deductible by the taxpayer under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f), (g) or (j) or section 112 or 113, for the year or in respect of the period or periods referred to in subclause (II), as the case may be, and

and

(c) subparagraph 126(3)(b)(iii) of the Act, as enacted by subsection (3), shall be read as follows:

(iii) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f), (g) or (j), in computing the individual's taxable income for the year or in respect of the period or periods referred to in subparagraph (ii), as the case may be,

(5) Notwithstanding subsections 152(4) to (5) of the Act, any assessment of a taxpayer's tax, interest or penalty for any taxation year shall be made that is necessary to give effect to any of subsections (1) to (4).

40. (1) Paragraph 127.52(1)(h) of the Act is amended by striking out the word "and" at the end of subparagraph (iv), by adding the word "and" at the end of subparagraph (v) and by adding the following after subparagraph (v):

(vi) the amount deducted under paragraph 110(1)(g);

(2) Subsection (1) applies to the 1997 and subsequent taxation years and, notwithstanding subsections 152(4) to (5) of the Act, any assessment of a taxpayer's tax, interest or penalty for any taxation year shall be made that is necessary to give effect to subsection (1).

41. (1) Paragraph 157(1)(b) of the Act is replaced by the following:

(b) the remainder of the taxes payable by it under this Part and Parts I.3, VI, VI.1 and XIII.1 for the year on or before its balance-due day for the year.

(2) Subsection (1) applies to taxation years that end after 2001.

42. (1) The Act is amended by adding the following after section 157:

Instalment
deferral for
January,
February and
March 2002 –
definitions

157.1 (1) The following definitions apply in this section.

"eligible
corporation"
« *société*
admissible »

"eligible corporation", for a particular taxation year, means a corporation

(a) that is resident in Canada throughout the particular taxation year; and

(b) of which the taxable capital employed in Canada, within the meaning assigned by Part I.3, for its preceding taxation year did not exceed,

(i) if the corporation is not associated with any other corporation in the particular taxation year, \$15 million, and

(ii) if the corporation is associated with one or more other corporations in the particular taxation year, the amount by which \$15 million exceeds the total of the taxable capital

employed in Canada, within the meaning assigned by Part I.3, of those other corporations for their last taxation years that ended in the last calendar year that ended before the end of the particular taxation year.

"eligible
instalment day"
« jour
admissible »

"eligible instalment day" of an eligible corporation means a day in January, February or March, 2002, on which an instalment on account of the corporation's tax payable under this Part for the taxation year that includes that day would become payable

(a) if this Act were read without reference to this section; and

(b) if, in the case of a corporation that is not required by section 157 to make instalment payments on account of its tax payable under this Part for the taxation year, it were so required.

Deferred
balance-due day

(2) An eligible corporation's balance-due day for a taxation year that ends after 2001 is deemed to be the later of

(a) the day that would otherwise be the corporation's balance-due day for the taxation year, and

(b) the day that is six months after the corporation's last eligible instalment day in the taxation year.

Deferred
instalment day

(3) An amount that would, because of paragraph 157(1)(a), otherwise become payable in respect of a taxation year by an eligible corporation on an eligible instalment day of the corporation does not become payable on that day but becomes payable

(a) if the particular day that is six months after the eligible instalment day is in the taxation year, on the particular day; and

(b) in any other case, on the day that is deemed by subsection (2) to be the corporation's balance-due day for the taxation year.

(2) Subsection (1) applies to taxation years that end after 2001.

43. (1) Subsection 160.1(1.1) of the Act is replaced by the following:

Liability for
refund by
reason of
s. 122.5

(1.1) If a person is a qualified relation of an individual (within the meaning assigned by subsection 122.5(1)), in relation to one or more months specified for a taxation year, the person and the individual are jointly and severally, or solidarily, liable to pay the lesser of

(a) any excess described in subsection (1) that was refunded in respect of the taxation year to, or applied to a liability of, the individual as a consequence of the operation of section 122.5, and

(b) the total of the amounts deemed by subsection 122.5(3) to have been paid by the individual during those specified months.

Liability under
other
provisions

(2) Subsection (1.1) does not limit a person's liability under any other provision of this Act.

(2) Subsection (1) applies to amounts deemed to be paid during months specified for the 2001 and subsequent taxation years.

44. (1) Paragraph (d) of the definition "balance-due day" in subsection 248(1) of the Act is replaced by the following:

(d) where the taxpayer is a corporation,

(i) the day that is three months after the day on which the taxation year (in this subparagraph referred to as the "current year") ends, if

(A) an amount was deducted under section 125 in computing the corporation's tax payable under this Part for the current year or for its preceding taxation year,

(B) the corporation is, throughout the current year, a Canadian-controlled private corporation, and

(C) either

(I) in the case of a corporation that is not associated with another corporation in the current year, its taxable income for its preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding taxation year) does not exceed its business limit for that preceding taxation year, or

(II) in the case of a corporation that is associated with one or more other corporations in the current year, the total of the taxable incomes of the corporation and of those other corporations for their last taxation years that ended in the last calendar year that ended before the end of the current year (determined before taking into consideration the specified future tax consequences for those last taxation years) does not exceed the total of the business limits of the corporation and of those other corporations for those last taxation years, and

(iii) the day that is two months after the day on which the taxation year ends, in any other case;

(2) Subsection (1) applies to taxation years that end after 2001.

